

REMARKS

This Application has been carefully reviewed in light of the Final Action issued April 23, 2009. Claims 1-25 are currently pending in this Application. In order to advance prosecution of this Application, Claims 1, 2, 14, 15, 24, and 25 have been amended. Applicant respectfully requests reconsideration and favorable action for this Application.

The Examiner issued a Final Action on April 23, 2009. Applicant respectfully requests continued examination of this Application so that the Examiner can reconsider the rejection of the claims in view of the amendments and remarks provided herein.

Claim 25 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 25 has been amended to address matters raised by the Examiner. Therefore, Applicant respectfully submits that Claim 25 is in accordance with 35 U.S.C. §112, second paragraph.

Claims 1 and 14 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,032,222 issued to Karp, et al. Claims 1 and 14 recite in general an ability to restrict, without totally suspending, processing of resource acquisition requests when a number of resources in use is within a first predetermined amount of a maximum number of available resources, wherein the resource acquisition requests include local resource acquisition requests generated by at least one local filesystem for access to local storage and network resource acquisition requests generated by at least one network filesystem for access to remote data via a network and wherein restricting processing of resource acquisition requests applies to network resource acquisition requests and not local resource acquisition requests. By contrast, the Karp, et al. patent fails to distinguish between network and

local resource acquisition requests let alone restricting processing of resource acquisition requests being applied to network resource acquisition requests and not local resource acquisition requests as required by the claimed invention. Support for the above recitation can be found at page 6, paragraph [0024] of Applicant's specification.

Claims 2-13 and 15-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over by U.S. Patent No. 7,032,222 issued to Karp, et al. in view of U.S. Patent No. 5,748,892 issued to Richardson. Independent Claim 1, from which Claims 2-13 and 25 depend, and Independent Claim 14, from which Claims 15-23 depend, have been shown above to be patentably distinct from the Karp, et al. patent. Independent Claim 24 includes similar limitations found in Independent Claims 1 and 14 shown above to be patentably distinct from the Karp, et al. patent. Moreover, the Richardson patent does not include any additional disclosure combinable with the Karp, et al. patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 2-13 and 15-25 are patentably distinct from the proposed Karp, et al. - Richardson combination.

Please charge an amount of \$810.00 in satisfaction of the request for continued examination fee under 37 C.F.R. §1.17(e) to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Applicant respectfully requests a one month extension of time for submitting this Request for Continued Examination. Attached herewith is a Notification of Extension of Time in support thereof.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other apparent reasons, Applicant respectfully requests allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees and credit any overpayments associated with this Application to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in dark ink, appearing to read 'Charles S. Fish', is written over the printed name.

Charles S. Fish

Reg. No. 35,870

24 August 2009

Correspondence Address:

2001 Ross Avenue, Suite 600

Dallas, Texas 75201-2980

Phone: (214) 953-6507

Customer Number: 05073